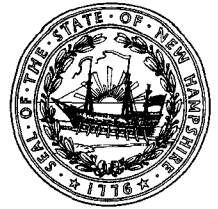




The State of New Hampshire  
**Department of Environmental Services**



Michael P. Nolin  
Commissioner

September 9, 2004

**Certified Mail  
Return Receipt Requested**

**Letter of Deficiency  
No. WMD 04-18**

Gene Livingston  
d/b/a Livingston's Auto Repair  
123 Henniker Street  
Hillsborough, NH 03244

**SUBJECT: HWC 04-038; 123 Henniker Street, Hillsborough, NH**

Dear Mr. Livingston:

On August 6, 2004, the Department of Environmental Services, Waste Management Division ("DES") conducted an inspection ("Inspection") of your property located at 123 Henniker Street, Hillsborough, NH ("Site"). The purpose of the Inspection was to determine your compliance status with RSA 147-A, RSA 149-M, and rules adopted pursuant thereto relative to the proper management of hazardous waste and solid waste.

During the Inspection, DES personnel learned or observed the following:

1. Mr. Livingston operates an automotive service garage, an automotive salvage yard, and a snowmobile service and sales company at the Site.
2. Vehicles are crushed at the Site once a year on a cement pad. On the pad were two unsealed and unlabeled 5-gallon containers of used oil as well as oil contaminated soils near the containers.
3. Partially buried tires and tires in the woods along the northern tree line.
4. Approximately 20,000 scrap tires.
5. Lead-acid batteries stored uncovered, outdoors on the ground.
6. Fourteen unlabeled 55-gallon drums in the back of pick-up trucks and one unlabeled 275-gallon tank. Some of the drums were not sealed. These drums contain fluids drained from vehicles.
7. Approximately forty 55-gallon drums containing used oil scattered around the Site. Some of the drums were labeled, others were not and some of the drums were sealed, others were not. Soil staining was observed near two of the drums.

**P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095**

Telephone: (603) 271-2900 • Fax: (603) 271-2456 • TDD Access: Relay NH 1-800-735-2964

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

8. A 300-gallon unlabeled and unsealed used oil tank in the snowmobile building. Mr. Livingston sealed the tank during the Inspection. Mr. Livingston indicated that his business burns approximately 3,000 gallons of used oil per year; he also indicated that he gives approximately 1,000 gallons of used oil to an abutting business. A review of DES records shows that Mr. Livingston has not notified DES as a used oil burner.

9. Parts washer is present in the snowmobile garage and the automotive garage. An employee indicated that mineral spirits are used in the parts washer. When the mineral spirits is no longer useable it is mixed with the used oil in the used oil tank and burned.

10. A burn pile, approximately 10 cubic yards in size, on the south side of the Site. Mr. Livingston indicated that pallets are burned at the Site. Metal plates were noted in the ash.

This letter serves to inform you that the above referenced Site conditions constitute violations of RSA 147-A, and 149-M, specifically:

Env-Wm 504.01	Failure to notify DES of hazardous waste activities; specifically as a used oil burner, used oil marketer, and hazardous waste generator.
Env-Wm 513.02(a)	Failure to remediate a discharge of hazardous waste; specifically clean-up of spilled waste oil.
Env-Wm 807.06(b)(1)	Failure to store used oil in containers which meet the U.S. department of transportation container specifications under 49 CFR, or in a structurally sound tank.
Env-Wm 807.06(b)(4)	Failure to label containers of used oil with the words "Used Oil for Recycle."
Env-Wm 807.06(b)(5)	Failure to seal containers of used oil.
Env-Wm 807.06(b)(6)	Failure to manage containers of used oil in a manner to prevent spillage, seepage, or other discharge of used oil into storm or sanitary sewers, onto the land, or into ground or surface waters.
Env-Wm 809.02	Failure to store lead-acid batteries in a manner designed to ensure that the battery housings do not break or leak acid onto the soil or into any groundwaters or surface waters.
RSA 149-M:9, II	Disposing solid waste at an unpermitted solid waste facility; specifically burial of tires and burning of solid waste.
Env-Wm 2605.02	Failure to manage scrap tires in accordance with the Solid Waste Rules.

Env-Wm 2702.02(e)

Failure to comply with air quality rules implemented by DES, or the New Hampshire State Implementation Plan under the Clean Air Act.

DES believes that the cited deficiencies can be corrected by completing the following requested actions within the time indicated:

1. **Within 30 days** the date of this letter, notify DES as a generator of hazardous waste and as a burner and marketer of used oil by completing and submitting a New Hampshire hazardous waste notification form to DES.
2. **Within 60 days** the date of this letter, ensure that stained soil is cleaned-up, containerized, and disposed of at a facility permitted to handle such waste.
3. **Within 7 days** the date of this letter, ensure that used oil is stored in DOT approved containers.
4. **Immediately** ensure that used oil containers are clearly labeled with the words "Used Oil for Recycle".
5. **Immediately** ensure that all used oil containers are sealed.
6. **Within 7 days** the date of this letter, ensure that lead-acid batteries are stored in a manner to ensure that the battery housings do not break or leak acid onto the soil or into any groundwaters or surface waters.
7. **Within 30 days** the date of this letter, ensure that all tires at the Site are stored in accordance with Env-Wm 2605.02.
8. **Immediately** ensure that only clean wood and brush is burned in the burn pile at the Site.
9. **Within 65 days** of the date of this letter, submit to DES written confirmation that these steps have been completed at the address below.

Please address all correspondence and reports regarding this matter to:

George Carrigan, Waste Management Specialist  
Department of Environmental Services  
P.O. Box 95  
Concord, NH 03302-0095  
Fax: (603) 271-2456

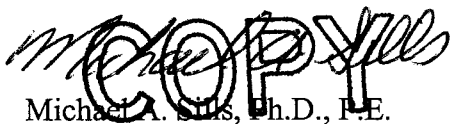
In the event compliance is not achieved within the time period indicated above, DES may initiate formal enforcement action against you including issuing an order requiring the deficiencies to be corrected and/or referring the matter to the New Hampshire Department of Justice for imposition of civil and/or criminal penalties. DES reserves the right to pursue administrative fines for the violation(s) noted above.

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Your prompt cooperation is appreciated. Please contact George Carrigan at (603) 271-3899 if you have any questions or need further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Sills", is written over a large, bold, black "COPY" stamp.

Michael A. Sills, Ph.D., P.E.  
Acting Administrator  
Waste Management Programs

Enclosures: Notification form, Env-Wm 2605.02

cc: DB/File  
Anthony P. Giunta, P.G., Director, WMD  
Gretchen R. Hamel, Legal Unit Administrator  
Town Clerk, Hillsborough, NH